

## **EXHIBIT 4**

Tr. of Crim. Cause for Status Conf.  
United States v. Franco, No. 23-CR-394 (DG)  
(E.D.N.Y. Oct. 15, 2024)

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA, : 23-CR-00394 (DG)

-against- : United States Courthouse  
: Brooklyn, New York

EDNA FRANCO, : October 15, 2024  
Defendant. : 10:30 a.m.

X  
TRANSCRIPT OF CRIMINAL CAUSE FOR STATUS CONFERENCE  
BEFORE THE HONORABLE DIANE GUJARATI  
UNITED STATES DISTRICT JUDGE

## A P P E A R A N C E S:

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1                    (In open court.)

2                    THE COURTROOM DEPUTY: All rise.

3                    Diane Gujarati is now presiding. You may be  
4 seated.

5                    United States of America versus Edna Franco.

6                    Is the Government ready?

7                    MR. NOBLE: Yes.

8                    THE COURT: State appearances for the record,  
9 please.

10                  MR. NOBLE: Good morning, Your Honor.

11                  Assistant U.S. Attorney Russell Noble and  
12 paralegal specialist Matias Burdman for the Government.

13                  THE COURT: Good morning to both of you.

14                  MS. VON DORNUM: Good morning, Your Honor.

15                  Deirdre von Dornum, Federal Defenders of New York,  
16 for Edna Franco. Ms. Franco is present next to me.  
17 Apologies for the delayed start time this morning.

18                  THE COURT: Good morning to both of you.

19                  What was the cause of the delay? It was something  
20 about the flight?

21                  MS. VON DORNUM: Yes. She missed her flight from  
22 Oklahoma City last night, so she took the next one, but it  
23 delayed everything, so we apologize, Your Honor.

24                  THE COURT: So the flight was this morning that  
25 she came in on?

1           MS. VON DORNUM: The flight was in the middle of  
2 the night --

3           THE DEFENDANT: The Uber, actually, the Uber. The  
4 flight -- I missed the flight in the morning.

5           MS. VON DORNUM: I'm sorry, it was a travel delay,  
6 Your Honor.

7           THE COURT: Okay, but I'm trying to understand the  
8 details of the travel delay. When did she come in?

9           MS. VON DORNUM: May I speak to her as opposed to  
10 her addressing the question?

11          THE COURT: Sure.

12          (Pause in proceedings.)

13          MS. VON DORNUM: Sorry, Your Honor.

14          THE COURT: That's okay.

15          MS. VON DORNUM: She was supposed to arrive around  
16 7:00 p.m. last night and she instead arrived around  
17 9:00 p.m. She was staying in the Bronx and it took  
18 longer -- this is the part I wasn't aware of, that it took  
19 longer for her to come from the Bronx than she was aware,  
20 which is why she was delayed.

21          THE COURT: Thank you for that clarification.

22          We are convened today for a conference. I am  
23 going to start by addressing Defendant's pending Motion to  
24 Suppress, ECF number 28. I am prepared to give the parties  
25 my ruling on the Motion.

1           This will take a while and I will speak slowly for  
2 the benefit of our court reporter, although we have such  
3 excellent court reporters that she may not need me to speak  
4 as slowly, but I think I will do that.

5           As the parties will recall, on September 16, 2024,  
6 the Court held oral argument on the Motion. It was a  
7 lengthy oral argument and I found it helpful to have the  
8 parties flesh out their arguments and to respond to each  
9 others' arguments and to the Court's questions.

10          Familiarity with the September 16th oral argument  
11 is assumed.

12          Familiarity with the parties' various submissions  
13 in connection with Defendant's motion also is assumed.

14          Defendant seeks suppression of the fruits of two  
15 separate warrants: One, the luggage warrant; and, two, the  
16 electronic devices warrant.

17          At oral argument, counsel for Defendant specified  
18 more precisely what Defendant is seeking to have suppressed.

19          With respect to the luggage, Defendant seeks  
20 suppression of everything.

21          With respect to the laptop, Defendant seeks  
22 suppression of everything.

23          And with respect to the phone, Defendant seeks  
24 suppression of everything other than the photographs.

25          Ms. Von Dornum, could you confirm for me that is

1 what you are seeking?

2 MS. VON DORNUM: That is correct, Your Honor.

3 Thank you.

4 THE COURT: And as discussed on the record at the  
5 oral argument, the portion of the Motion to Suppress that  
6 relates to the CD-R was deemed withdrawn in light of the  
7 Government's representation that the CD-R is unreadable.

8 The luggage warrant was issued on September 22nd,  
9 2023 by Magistrate Judge Pollack and the electronic devices  
10 warrant was issued on October 6, 2023 by then-Magistrate  
11 Judge Reyes.

12 The parties' respective arguments were addressed  
13 at some length at oral argument. I will only very briefly  
14 summarize those arguments now. I incorporate the more  
15 fulsome summary I gave at oral argument, which the parties  
16 confirmed was an accurate summary of their arguments. And  
17 although I am not going to repeat all of the arguments now,  
18 I have considered all of the arguments.

19 Defendant argues that the luggage warrant was  
20 overbroad and insufficiently particular.

21 Defendant argues that the electronic devices  
22 warrant was based on the fruits of the unconstitutional  
23 luggage warrant and on the fruits of an unconstitutional  
24 manual review of Defendant's cellphone at the airport; that  
25 the electronic devices warrant was overbroad and

1 insufficiently particular; and that there was unreasonable  
2 delay in the search of the cellphone.

3 Defendant also argues that the good faith  
4 exception does not apply here.

5 The Government opposes Defendant's motion in its  
6 entirety.

7 The Government argues that each warrant was  
8 sufficiently particularized; that each warrant was not  
9 overbroad; that the manual border search of Defendant's  
10 cellphone did not violate the Fourth Amendment, and, in any  
11 event, the electronic devices warrant was based upon  
12 probable cause irrespective of the manual review of  
13 Defendant's cellphone; and that any delay in obtaining the  
14 warrant was not unreasonable.

15 Further, as to each warrant, the Government argues  
16 that the agents who executed the search pursuant to the  
17 warrant relied in good faith on the warrant, that the good  
18 faith reliance was objectively reasonable, and that even if  
19 the warrant suffered from some defect, the good faith  
20 exception should apply.

21 In reaching my ruling on the Motion, I have  
22 considered the parties' filings as well as the arguments  
23 made at the September 16th oral argument. Neither party  
24 sought a hearing in connection with the Motion and the Court  
25 has determined that no hearing is necessary for resolution

1 of the Motion.

2           In giving you my ruling, I will start by setting  
3 forth the general legal standards that apply.

4           The Fourth Amendment to the United States  
5 Constitution provides: "The right of the people to be  
6 secure in their persons, houses, papers, and effects,  
7 against unreasonable searches and seizures, shall not be  
8 violated, and no Warrants shall issue, but upon probable  
9 cause, supported by Oath or affirmation, and particularly  
10 describing the place to be searched, and the persons or  
11 things to be seized."

12          A search warrant may issue upon a showing of  
13 probable cause to believe that a crime was committed and  
14 that evidence of such crime will be found in the place to be  
15 searched.

16          When determining whether probable cause exists,  
17 the issuing Magistrate Judge must make a practical,  
18 commonsense decision whether, given all the circumstances  
19 set forth in the affidavit before the Magistrate Judge,  
20 there is a fair probability that contraband or evidence of a  
21 crime will be found in a particular place. See *Illinois*  
22 *versus Gates*, 462 U.S. 213, at 238 (1983); *United States*  
23 *versus Jones*, 43 F.4th 94, at 109 (Second Circuit 2022); and  
24 *United States versus DiTomasso*, 932 F.3d 58, at 66 (Second  
25 Circuit 2019). A Magistrate Judge's determination that

1 probable cause exists is owed substantial deference by a  
2 reviewing court. The duty of the reviewing court is to  
3 ensure that the Magistrate Judge had a substantial basis for  
4 concluding that probable cause existed. See *Jones*, 43 F.4th  
5 at 109; and *United States versus Wagner*, 989 F.2d 69, at 72  
6 (Second Circuit 1993). See also *Gates*, 462 U.S. at 238 to  
7 239.

8 In addition to probable cause, the Fourth  
9 Amendment requires that the scope of the authorized search  
10 be set out with particularity. In order for a warrant to be  
11 sufficiently particular under the Fourth Amendment, the  
12 warrant must satisfy three requirements: First, it must  
13 identify the specific offense for which the police have  
14 established probable cause; second, it must describe the  
15 place to be searched; and third, it must specify the items  
16 to be seized by their relation to designated crimes. See  
17 *United States versus Galpin*, 720 F.3d 436, at 445 to 446  
18 (Second Circuit 2013).

19 The level of specificity required depends on many  
20 factors, including the nature of the crime and the type of  
21 evidence sought. See *United States versus Cioffi*, 668 F.  
22 Supp. 2d 385, at 391 (Eastern District of New York 2009);  
23 *United States versus Zottola*, number 18-CR-609, 2022 Westlaw  
24 3682222, at one (Eastern District of New York, August 25,  
25 2022); and *United States versus Nordlicht*, number 16-CR-640,

1 2018 Westlaw 705548, at six (Eastern District of New York,  
2 February 2, 2018).

3 A search warrant does not necessarily lack  
4 particularity simply because it is broad. See *United States*  
5 *versus Purcell*, 967 F.3d 159, at 179 (Second Circuit 2020).

6 A warrant is overbroad if it provides for the  
7 seizure of specific items for which there is no probable  
8 cause. The determination of whether there was probable  
9 cause sufficient to support the breadth of a warrant is  
10 based on a totality-of-the-circumstances analysis. See  
11 *Nordlicht*, 2018 Westlaw 705548, at seven; and *United States*  
12 *versus Hernandez*, number 09-CR-625, 2010 Westlaw 26544, at  
13 eight (Southern District of New York, January 6, 2010).

14 Even where a warrant is defective, suppression  
15 does not automatically follow if the good faith exception  
16 applies. Under the good faith exception, if law enforcement  
17 acted with objectively reasonable reliance on the search  
18 warrant, exclusion is not warranted. The good faith  
19 exception will not apply, however, in situations where the  
20 issuing Magistrate Judge has been knowingly misled; where  
21 the issuing Magistrate Judge wholly abandoned his or her  
22 judicial role; where the search warrant application is so  
23 lacking in indicia of probable cause as to render reliance  
24 upon it unreasonable; and where the warrant is so facially  
25 deficient that reliance upon it is unreasonable. See *United*

1     *States versus Leon*, 468 U.S. 897, at 922 to 23 (1984);  
2     *United States versus Clark*, 638 F.3d 89, at 99 to 100  
3     (Second Circuit 2011); and *United States versus Moore*,  
4     968 F.2d 216, at 222 (Second Circuit 1992).

5                 The exclusionary rule is designed to deter future  
6     Fourth Amendment violations. Because the remedy exacts a  
7     heavy toll on the justice system, the exclusionary rule does  
8     not apply whenever suppressing evidence might provide  
9     marginal deterrence. See *United States versus Raymonda*,  
10    780 F.3d 105, at 117 (Second Circuit 2015). And that case  
11    is quoting *Herring versus United States*, 555 U.S. 135, at  
12    141 (2009). When police conduct involves only simple,  
13    isolated negligence, exclusion is not warranted. See  
14    *Raymonda*, 780 F.3d at 118.

15                 Border searches are a long-recognized exception to  
16     the general rule requiring that searches be supported by  
17     probable cause and conducted with a warrant. See *United*  
18    *States versus Gavino*, number 22-CR-136, 2024 Westlaw 85072,  
19    at three (Eastern District of New York, January 7, 2024).  
20    And that case is citing *United States versus Ramsey*,  
21    431 U.S. 606, at 619 (1977).

22                 For routine border searches, there is no warrant  
23     requirement and no requirement of probable cause or  
24     reasonable suspicion. See *United States versus Montoya de*  
25    *Hernandez*, 473 U.S. 531, at 537 to 38 (1985); and *Tabbaa*

1       *versus Chertoff*, 509 F.3d 89, at 97 to 98 (Second Circuit  
2       2007); see also *United States versus Irving*, 452 F.3d 110,  
3       at 123 (Second Circuit 2006).

4                  For more invasive, non-routine border searches,  
5       reasonable suspicion is required. See *Gavino*, 2024 Westlaw  
6       85072, at four, collecting cases.

7                  The level of suspicion the reasonable suspicion  
8       standard requires is considerably less than proof of  
9       wrongdoing by a preponderance of the evidence and obviously  
10      less than is necessary for probable cause. Reasonable  
11     suspicion requires only a particularized and objective basis  
12     for suspecting the particular person stopped of criminal  
13     activity. See *United States versus Levy*, 803 F.3d 120, at  
14     123 (Second Circuit 2015). And that case is quoting  
15     *Navarette versus California*, 134 Supreme Court 1683, at 1687  
16     (2014).

17                  One moment, please.

18                  The precise line between what is routine and what  
19       is not routine has not been clearly delineated. The  
20       determining factor as to whether something is routine or  
21       non-routine is not how ordinary or commonplace a search is,  
22       but rather the level of intrusion into a person's privacy.  
23       See *Tabbaa*, 509 F.3d at 98; see also *Irving*, 452 F.3d at  
24       123.

25                  The Supreme Court and Second Circuit do not appear

1 to have expressly addressed the issue of whether a warrant  
2 is required for a border search of electronic devices.

3           However, the weight of authority, within and  
4 outside this Circuit, supports the conclusion that a search  
5 warrant is not required for a manual search of a cellphone  
6 at the border.

7           The Supreme Court and Second Circuit also do not  
8 appear to have expressly addressed what level of suspicion,  
9 if any, is required with respect to the search of electronic  
10 devices at the border. However, some courts have held that  
11 reasonable suspicion is required with respect to such  
12 searches. See, e.g., *Gavino*, 2024 Westlaw 85072 at four,  
13 addressing *Riley versus California*, 573 U.S. 373 (2014);  
14 stating that Riley's discussion of privacy interests  
15 establishes that searches of cellphones should be treated as  
16 intrusive border searches, rather than standard ones; and  
17 concluding that the Fourth Amendment principles governing  
18 intrusive border searches require law enforcement officers  
19 to have reasonable suspicion of criminal activity in order  
20 to search a traveler's cellphone, but do not require more  
21 than reasonable suspicion.

22           With respect to the issue of delay in seeking a  
23 warrant for a seized item: The Second Circuit has indicated  
24 that the following four factors are generally relevant to  
25 the determination of whether the police have waited an

1       unreasonable amount of time before seeking a search warrant  
2       for an item they have seized: One, the length of the delay;  
3       two, the importance of the seized property to the defendant;  
4       three, whether the defendant had a reduced property interest  
5       in the seized item; and, four, the strength of the state's  
6       justification for the delay. See *United States versus*  
7       *Smith*, 967 F.3d 198, at 206 (Second Circuit 2020).

8                      Defendant's Motion to Suppress, ECF number 28, is  
9       denied in its entirety.

10                  I note at the outset that various of Defendant's  
11       arguments, particularly as to particularity and overbreadth,  
12       appear to ignore relevant context and/or to construe overly  
13       narrowly the relevance of certain information and evidence.  
14       The Court finds particularly unpersuasive Defendant's  
15       arguments about the numerous cards found in Defendant's  
16       possession, about the badge, and about Defendant's  
17       statements to the border officers. The Court also notes  
18       that Defendant appears to largely minimize the issue of  
19       Defendant's intent as it relates to the issuance of the  
20       warrants.

21                  Many of Defendant's arguments are undercut by the  
22       fact that the showing for obtaining a warrant is probable  
23       cause, not proof beyond a reasonable doubt, and by the fact  
24       that when determining whether probable cause exists, a  
25       Magistrate Judge must make a practical, commonsense decision

1 given all the circumstances set forth.

2 Judged under the applicable legal standards, and  
3 affording the appropriate deference to the probable cause  
4 determinations of the Magistrate Judges who issued the  
5 warrants, the Court concludes that neither warrant runs  
6 afoul of the Fourth Amendment.

7 Starting with the luggage warrant:

8 I find that the luggage warrant is sufficiently  
9 particular as to not violate the Fourth Amendment.

10 As I noted earlier, the particularity requirement  
11 has three components: A warrant must identify the specific  
12 offenses for which probable cause has been established,  
13 describe the places to be searched, and specify the items to  
14 be seized by their relation to designated crimes. The  
15 luggage warrant fulfills each of these requirements. And  
16 that is so notwithstanding the lack of a temporal  
17 limitation.

18 Suppression is not warranted on the basis that the  
19 luggage warrant was insufficiently particular.

20 Further, in light of the totality of the  
21 circumstances, suppression is not warranted on the basis of  
22 overbreadth. This is particularly so in light of the nature  
23 of the offenses at issue. Defendant's arguments regarding  
24 overbreadth do not properly account for the totality of the  
25 circumstances.

1           Moreover, even assuming *arguendo* that the luggage  
2 warrant was insufficiently particular and/or overbroad, the  
3 good faith exception would apply under the circumstances  
4 here, precluding suppression.

5           The record indicates that law enforcement acted  
6 with objectively reasonable reliance on the luggage warrant.

7           The record does not reflect that there are  
8 circumstances suggesting that the good faith exception  
9 should not apply here. The record does not support a  
10 conclusion that the issuing Magistrate Judge was knowingly  
11 misled or wholly abandoned her judicial role; that the  
12 search warrant application was so lacking in indicia of  
13 probable cause as to render reliance upon it unreasonable;  
14 or that the warrant was so facially deficient that reliance  
15 upon it was unreasonable.

16           Turning to the electronic devices warrant:

17           As an initial matter, in light of my denial of the  
18 motion to suppress the luggage warrant, Defendant's argument  
19 that the electronic devices warrant must be suppressed  
20 because it was based on the fruits of the luggage warrant is  
21 unavailing.

22           So too is Defendant's argument that the electronic  
23 devices warrant was based on an unconstitutional manual  
24 review of Defendant's cellphone at the airport.

25           The Court agrees with the weight of the authority

1       in concluding that a search warrant was not required.  
2       Although Defendant has pointed to two district court cases  
3       in support of her argument to the contrary, the Court is not  
4       persuaded by those cases, which, of course, are not binding  
5       on the Court here.

6                  Further, even assuming *arguendo* that reasonable  
7       suspicion was required, the record reflects that in light of  
8       the totality of the circumstances, there was reasonable  
9       suspicion here, substantially for the reasons set forth by  
10      the Government in its briefing and at oral argument.

11                 As for Defendant's claim of unreasonable delay, I  
12      find that the period between September 19, 2023, when the  
13      Government obtained the phone, and October 6, 2023, when the  
14      Government sought a search warrant, did not constitute an  
15      unreasonable delay under the circumstances here. The four  
16      *Smith* factors, on balance, weigh in the Government's favor.

17                 As to the first factor, the delay was 17 calendar  
18      days and 13 business days. I find that factor to be at  
19      worst neutral on the facts of this case.

20                 As to the second factor, courts have recognized  
21      the importance of cellphones and have recognized that  
22      cellphones raise special concerns. But, as the Government  
23      points out, here it is notable that Defendant has not set  
24      forth, either by affidavit or otherwise, the importance of  
25      the cellphone to her, even after her failure to do so was

1 highlighted. Further, as the Government also points out,  
2 the record reflects that Defendant had multiple cellphones  
3 in her possession. I find the second *Smith* factor to be at  
4 worst neutral on the facts of this case.

5 I find that the third factor does not weigh  
6 against the Government and arguably weighs in favor of the  
7 Government in light of where the cellphone was seized,  
8 namely, at the border.

9 Finally, I find that the fourth factor weighs  
10 heavily in favor of the Government. The justification for  
11 the delay is strong. As reflected in the record, the agents  
12 were taking reasonable investigative steps, including  
13 obtaining and executing the luggage warrant, during the  
14 period after they obtained the cellphone and before they  
15 sought the warrant for it.

16 Weighing the four factors together, the Court  
17 cannot conclude that the delay in seeking the warrant was  
18 unreasonable.

19 Turning to the warrant itself:

20 I find that the electronic devices warrant is  
21 sufficiently particular as to not violate the Fourth  
22 Amendment.

23 The electronic devices warrant fulfills each of  
24 the three requirements that I set forth earlier. And,  
25 notably, the electronic devices warrant does contain a

1 temporal limitation.

2 Suppression is not warranted on the basis that the  
3 electronic devices warrant was insufficiently particular.

4 Further, in light of the totality of the  
5 circumstances, suppression is not warranted on the basis of  
6 overbreadth. Again, this is particularly so in light of the  
7 nature of the offenses at issue and, again, Defendant's  
8 arguments regarding overbreadth do not properly account for  
9 the totality of the circumstances.

10 Moreover, even assuming *arguendo* that the  
11 electronic devices warrant was insufficiently particular  
12 and/or overbroad, the good faith exception would apply under  
13 the circumstances here, precluding suppression.

14 The record indicates that law enforcement acted  
15 with objectively reasonable reliance on the electronic  
16 devices warrant.

17 And, as with the luggage warrant, here too the  
18 record does not reflect that there are circumstances  
19 suggesting that the good faith exception should not apply.  
20 The record does not support a conclusion that the issuing  
21 Magistrate Judge was knowingly misled or wholly abandoned  
22 his judicial role; that the search warrant application was  
23 so lacking in indicia of probable cause as to render  
24 reliance upon it unreasonable; or that the warrant was so  
25 facially deficient that reliance upon it was unreasonable.

1           And I note for the sake of record completeness  
2 that even were the information from the manual review of the  
3 cellphone omitted from the electronic devices warrant  
4 application, that would not change the Court's conclusion  
5 that suppression of the fruits of that warrant is not  
6 warranted.

7           Finally, even if either or both warrants suffered  
8 infirmities, suppression of the fruits of the luggage  
9 warrant and/or the fruits of the electronic devices warrant  
10 would not serve the purpose of the exclusionary rule. It  
11 would not deter future Fourth Amendment violations.

12           Again, Defendant's Motion to Suppress, ECF number  
13 28, is denied in its entirety. And that concludes my  
14 ruling.

15           Let me turn to the Government for anything else  
16 you would like to raise with me today.

17           MR. NOBLE: Your Honor, we have had additional  
18 discussions about a possible resolution in this case since  
19 the last court date. It seems at this point that we are not  
20 reaching a resolution, so I believe that the next step is  
21 that the court should schedule a trial date.

22           THE COURT: Ms. von Dornum?

23           MS. VON DORNUM: Yes, I agree.

24           THE COURT: Let me ask you, and I'm sure I asked  
25 you this at an earlier conference, but sometimes things

1 change over time.

2 Let me ask the Government, how long do you think  
3 the trial in this matter would take?

4 MR. NOBLE: I would anticipate two to three days  
5 for the Government's Case in Chief.

6 THE COURT: Ms. von Dornum, of course the defense  
7 has no obligation to put on any case, but do you want to  
8 comment on what you believe would be the anticipated length  
9 of the trial overall?

10 MS. VON DORNUM: Yes, Your Honor. I would think  
11 one to two days.

12 THE COURT: Overall?

13 THE DEFENDANT: Your Honor, can I speak up,  
14 please?

15 MS. VON DORNUM: No.

16 THE DEFENDANT: I need to hire an international  
17 lawyer, please.

18 MS. VON DORNUM: Not right now.

19 THE COURT: Let me give you a moment, Ms. von  
20 Dornum, to speak to your client.

21 And, actually, I think we are going to just take a  
22 five- to ten-minute adjournment. I want to check the  
23 calendar, too, now that I know you're asking for a trial  
24 date. But let me give you time to speak to your client as  
25 well.

1           So we'll adjourn. And let's give ten minutes from  
2 now. The clock is never quite right. How about a quarter  
3 to 12 we'll come back.

4           MS. VON DORNUM: Yes.

5           THE COURT: Okay.

6           (Recess taken.)

7           THE COURT: We are back on the record, and  
8 everybody is still here including the Defendant.

9           Go ahead, Ms. von Dornum.

10          MS. VON DORNUM: Thank you, Your Honor.

11          Ms. Franco just told me that she would like me to  
12 inform you that she wishes to go pro se beginning  
13 immediately.

14          THE COURT: We are going to have to schedule a  
15 proceeding before that can happen because I have to assure  
16 myself that you understand your rights and how things will  
17 be moving forward.

18          So give me a moment, please.

19          MS. VON DORNUM: Thank you.

20          THE COURT: And I am not going to be relieving  
21 Counsel, at the very earliest, at a conference.

22          You know what, give me another five minutes. We  
23 are going to adjourn.

24          MS. VON DORNUM: Thank you, Your Honor.

25          You may already be aware of this. I believe the

1      Government at an earlier stage had filed a letter setting  
2      forth questions.

3                THE COURT: Yes. Thank you. We are going to  
4      adjourn for five minutes.

5                (Recess taken.)

6                THE COURTRoom DEPUTY: Remain seated.

7                THE COURT: Thank you.

8                My apologies, that was longer than five minutes,  
9      but we are all convened again, including the Defendant.

10               Let me ask you, Ms. von Dornum -- well, I would  
11      like to ask the Defendant, but I will ask through you: You  
12      are her first lawyer, right, Ms. von Dornum?

13               MS. VON DORNUM: That's correct, Your Honor.

14               THE COURT: Sometimes the relationship doesn't  
15      work out well between a client and an attorney, for whatever  
16      reason. You've only had this one attorney. I am willing to  
17      appoint new counsel for you, somebody else, if you would  
18      like to do that. That's not something you can keep doing,  
19      but I would be willing to appoint new counsel for you in  
20      place of Ms. von Dornum.

21               THE DEFENDANT: That would be great, Your Honor.

22               THE COURT: So she would like to have counsel?

23               MS. VON DORNUM: She is accepting your offer of  
24      new CJA counsel.

25               THE COURT: Okay. So Mr. Karloff Commissiong is

1       counsel who is on duty today. And I am going to appoint him  
2       to represent you.

3               And I'm sorry, Ms. von Dornum, go ahead.

4               MS. VON DORNUM: I wonder, just to try to look  
5       ahead to the future problems --

6               THE COURT: Yes.

7               MS. VON DORNUM: -- whether, perhaps, someone with  
8       experience with sovereign citizens and the like would be a  
9       good idea. I am concerned that we'll soon have a similar  
10      request and I leave that in the Court's hands, but I just  
11      worry.

12              THE COURT: Well, he is the person on duty today  
13      and I am going to appoint him and if there are any issues  
14      that arise, we'll take them up then. But I do think that  
15      sometimes just a simple change of counsel, you know, can  
16      make a difference. And so I'm appointing Mr. Commissiong to  
17      represent Ms. Franco.

18              And I do thank Ms. von Dornum. It's been clear to  
19      me that she's worked hard on this case. So my relieving her  
20      is no reflection on her, but I do understand that that's  
21      what Ms. Franco, who is the Defendant in the case, wants.

22              MS. VON DORNUM: Yes, Your Honor.

23              THE COURT: Does the Government want to be heard  
24      on any of this?

25              MR. NOBLE: No, Your Honor. We defer to the

1 court.

2 THE COURT: Okay. So I was prepared to set a  
3 trial date. I don't think that's wise to do in light of the  
4 fact that there is a change of counsel. I think it makes  
5 sense to have new counsel be able to consult with his client  
6 and also maybe have discussions with the Government.

7 But I think we need to set a conference relatively  
8 soon so that we can keep things moving. So I am going to  
9 set the next conference down for November 1st, at 11:00 a.m.  
10 And, again, Mr. Commissiong is appointed and Ms. von Dornum  
11 is relieved.

12 But before I relieve you, Ms. von Dornum, we'll  
13 complete the proceeding today, since you are here and  
14 Mr. Commissiong is not yet here.

15 Again, I would like the Government, of course, to  
16 speak to new counsel and, Ms. von Dornum, you will transfer  
17 everything that you have, I take it.

18 MS. VON DORNUM: Of course. Do you know if he is  
19 in the building, Your Honor?

20 THE COURT: One moment.

21 MS. VON DORNUM: Given that she lives out of  
22 state.

23 THE COURT: We don't know, but when we adjourn,  
24 Mr. D'Agostino can make a call and find out.

25 I am going to put the next conference down for

1 November 1st at 11:00 a.m.

2 Is there an application for the exclusion of time  
3 for Speedy Trial Act purposes between now and November 1st?

4 MR. NOBLE: There is, Your Honor. The Government  
5 submits the interest of justice supports the exclusion of  
6 time, as this adjournment will allow the Defendant to  
7 resolve any issues with the representation and get the new  
8 defense counsel up to speed. I will also provide all  
9 discovery that's been provided thus far to her new counsel.

10 THE COURT: That's helpful.

11 MS. VON DORNUM: Your Honor, one moment.

12 THE COURT: Yes, please.

13 MS. VON DORNUM: Ms. Franco has no objection to  
14 the exclusion of time.

15 THE COURT: I will exclude time for Speedy Trial  
16 Act purposes, the time from today until November 1st, 2024.  
17 I do so under Title 18, United States Code, Section  
18 3161(h)(7)(A). I find that the ends of justice served by  
19 excluding the time from today until November 1st outweigh  
20 the best interest of the public and the Defendant in a  
21 speedy trial, primarily because that period of time will  
22 allow for new counsel to get up to speed on the case, to be  
23 able to consult with his client, and to be able to have  
24 discussions with the Government and to review the discovery  
25 that the Government, I understand, will now reproduce to the

1 new counsel and anything else that Ms. von Dornum will  
2 transfer over to new counsel.

3 So I find that the time is properly excludable and  
4 I exclude that time. If for some reason there needs to be  
5 an adjournment beyond November 1st, if the parties think it  
6 would be productive after discussions with new counsel, you  
7 can certainly put in a request for an adjournment of that  
8 conference, but I think it makes sense to have a conference,  
9 you know, fairly soon on the calendar.

10 Ms. Franco --

11 THE DEFENDANT: Your Honor, I have a very, very  
12 important --

13 MS. VON DORNUM: I am just advising her she can  
14 speak to Mr. Commissiong.

15 THE COURT: Yes. And let me make very clear, now,  
16 too, Ms. von Dornum is being relieved, a new lawyer is  
17 coming on to the case, so all communications with the Court  
18 and all filings should go through the new lawyer. And I am  
19 sure that that person will reach out to you very soon.

20 THE DEFENDANT: Thank you.

21 THE COURT: Thank you.

22 Is there anything else we need to take up?

23 MR. NOBLE: Not from the Government.

24 MS. VON DORNUM: No, Your Honor. Thank you.

25 THE COURT: With thanks to Ms. von Dornum, she is

1 relieved and we are adjourned. Thank you.

2 MR. NOBLE: Thank you, Your Honor.

3 (Matter adjourned.)

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5 \* \* \* \*

6

7 I certify that the foregoing is a correct transcript from  
the record of proceedings in the above-entitled matter.

8

9 /s/ Jamie Ann Stanton

October 15, 2024

10 JAMIE ANN STANTON

DATE

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